IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3259 OF 2007

Mr.Mohammed Hassan Mehandi Hassan Khan. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Priyatesh R. Tiwari i/b. A.M.Saraogi for the applicant.

K.V.Saste, A.P.P. for the State.

CORAM: V.C.DAGA, J.

DATED: 2nd November 2007.

P.C.:

. This matter was heard by me on 26th October, 2007 and 1st November, 2007. Yesterday, when this matter was argued by Mr.Saraogi. He sought to pray for bail contending that the trial is yet to start. This contention was raised in view of the earlier two order of this Court rejecting application for bail and directing the trial Court to proceed with trial with expeditious despatch.

2. When this matter was heard, Mr.Saraogi, appearing for the applicant, produced certified copy

of ordersheet which was applied by the applicant on 27th September, 2007. With the assistance of this ordersheet, it was argued by Mr.Saraogi, learned counsel for the applicant that the trial is yet to commence.

3. The above submission was countered by the learned A.P.P., appearing for the State after taking instruction from the investigating officer, who was present in the Court. Learned A.P.P., specifically, mentioned that more than two witnesses were examined as such trial is on. Mr.Saraogi disputed this statement with all vehemence at his command.

4. Since there were conflicting statements made, the matter was adjourned with direction to the investigating officer and learned A.P.P. to produce certify copy of upto-date ordersheets.

5. Accordingly, ordersheet is produced by the prosecution, which clearly shows that after 27th September, 2007 on the following dates the trial was taken up:

9th October, 2007; 11th October, 2007; 15th October, 2007; 16th October, 2007; 19th October, 2007; 20th October, 2007; 29th October, 2007; 30th October, 2007 and 31st

October, 2007.

The certified copy of the ordersheets produced by the learned A.P.P. is taken on record.

6. It is thus, clear that while advancing submission that trial has not yet commenced, Mr.Saraogi, learned counsel for the applicant suppressed the ordersheets subsequent to 27th September, 2007 to mislead this Court with a view to obtain favourable order from this Court.

7. Since application for certified copy of ordersheet was made on 27th September, 2007, registry of the trial Court was not expected to issue the ordersheet beyond 27th September, 2007. Therefore, the certified copy of the ordersheet contained "Roznama" only upto 27th September, 2007.

8. In the above view of the matter, I have no option but to reject this application for bail for not approaching this court with clean hands. Mere rejection would not do justice. Growing tendency to make false statements, fabricate documents needs to be arrested. The litigant must bear the brunt of heavy costs.

9. In the result, application is rejected with

costs quantified in the sum of Rs.30,000/-. The amount of costs to be deposited with this Court within one week from today. In the event of such deposit, the amount of costs should be transferred to the Legal Services Committee of this Court. In the event of failure to deposit the amount of costs, the trial Court is directed to recover the same in accordance with law.

JUDGE